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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,733	07/21/2006	Atsushi Matsutani	293205US8PCT	5995
22850	7590	04/23/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
PEREZ, ANGELICA				
ART UNIT		PAPER NUMBER		
2618				
NOTIFICATION DATE		DELIVERY MODE		
04/23/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

**Application No.**

10/586,733

**Applicant(s)**

MATSUTANI, ATSUSHI

**Examiner**

ANGELICA M. PEREZ

**Art Unit**

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 19 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The examiner was not able to find support in the specifications for the limitations, "A computer readable medium including computer executable instructions, wherein the instructions, when executed by a processor, cause the processor to perform a method..."

Claim 11, "a determining unit configured to determine if a condition relative to a predetermined time period is met", the examiner was not able to find which specific unit performs this function, therefore, the examiner is giving a broad interpretation where any element comprised in the "apparatus" can do the determination. In addition, it seems like the requesting unit is not the one making the determination, but the server.

Regarding claim 14, the examiner was not able to find support for the limitation "said predetermined time period can be changed by a user".

Regarding claims 15 and 22, the examiner was not able to find a description and/or support for the limitation, "communication unit/means", the term can be broadly

interpreted since servers comprise computers that can be communication units, user's devices can be communication units as well as other devices/apparatuses that belong to a communication system.

Regarding claim 16, the examiner was not able to find a description and/or support for the limitation, "where the communication unit/means receives the request from the external device at predetermined time intervals." The examiner believes the applicant refers to the periods indicated for the reports, e.g., "every one hour", "one week", "and one month".

***Information Disclosure Statement***

3. The explanation provided is accepted, therefore, the objection is withdrawn. However, since there are no copies of the references, only the report has been considered.

***Response to Arguments***

4. Applicant's arguments filed 12/05/2008 have been fully considered but they are not persuasive. Please, see rejection below.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 11-14, 17-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Naomi, Misawa (Naomi, JP Pub. No.: 2002-208900 A).

Regarding claims 11 and 21, Naomi teaches of an apparatus comprising: a determining unit/means configured to determine if a condition relative to a predetermined time period is met (paragraph 6, means to store/accumulate data for one week, where the means determines the end of the period; e.g., "one week"); and a communication unit configured to transmit to a server a request for obtaining a number of times contents were broadcasted when the condition relative to the predetermined time period is met ( paragraphs 13 and 20, where the data is distributed according to user's request..."; "customer 13-15 place an order by HP (homepage) etc..."; where a computer or "cellular telephone" are the apparatuses that comprise the HP utilized for the "request"), and to receive the number of times contents were broadcasted from the server as a response to the request (figure 4, where in columns 1 and 2, the number of times of the specific song requested/played shown in column 2, where it can be seen that the arrangement is done in a descending order; e.g., 113, 84, 71, 71, 68, 66 and 59 times).

Regarding claim 12, Naomi teaches all the limitations of claim 11. Naomi further teaches of a display processing unit configured to process data to be displayed on the display unit (paragraph 20, e.g., "display on a cellular phone"), the display processing unit configured to display the number of times contents were broadcasted on the display unit in a predetermined order (figure 4, where in columns 1 and 2, the number of times of the specific song requested/played shown in column 2, where it can be seen that the arrangement is done in a descending order; e.g., 113, 84, 71, 71, 68, 66 and 59 times).

Regarding claim 13, Naomi teaches all the limitations of claim 11. Naomi further teaches of a setting unit configured to set at least one of a broadcasting period, a title, and a broadcasting station as a search condition (paragraphs 15-17; where SQL database computer language allows the storing/retrieval/management of data in a searchable format, at least, according to "track name" corresponding to "title"; thus, setting the search condition according to title), the communication unit configured to transmit the search condition to the server ( paragraphs 13 and 20, where the data is distributed according to user's request..."; "customer 13-15 place an order by HP (homepage) etc..."; where a computer or "cellular telephone" are the apparatuses that comprise the HP utilized for the "request"), and the number of times contents were broadcasted is searched based on the search condition at the server and is received by the communication unit (figure 4, where in columns 1 and 2, the number of times of the specific song requested/played shown in column 2, where it can be seen that the arrangement is done in a descending order; e.g., 113, 84, 71, 71, 68, 66 and 59 times; where the information is sent to the user's device).

Regarding claim 14, Naomi teaches all the limitations of claim 11. Naomi further teaches where the predetermined time period can be changed by a user (paragraphs 18-19, "weekly report" and "can create and distribute...variations...according to a request...", respectively; paragraph 20, "customer place an order...", paragraph 16, "daily report"; where the reports are sent to the customer according to the request, thus changing the period).

Regarding claims 17 and 19, Naomi teaches of a method and a computer readable medium including computer executable instructions, where the instructions, when executed by a processor, cause the processor to perform a method comprising (paragraphs 15 and 25, where "data processing" of the method requires software for its execution and where software executes written computer programs. E.g., of computer programmed languages "Excel", HTML, SQL, etc.): transmitting request information to request broadcast contents information to a storage device configured to store broadcast contents information including the titles of the broadcast contents that will be broadcasted by one or more broadcasting stations (paragraphs 13, extraction and processing means...reads the broadcasting data stored in data server 11...and provides the data according to user's request. Where the user request broadcast content and where the request is communicated to the "data server" by intermediary "extraction and processing means". Paragraph 16, "track name" corresponding to "titles"); receiving the broadcast contents information transmitted from the storage device corresponding to the request information (paragraphs 19-20, where the information is distributed to and received by the users according to their request and where the data was transmitted from database 11 to the "extraction and processing means 10", then it is transmitted to the users that requested it through "internet wide area network 12", see figure 1, see also bidirectional (arrows) communication); and detecting a number of times contents were broadcasted included in the broadcast contents information received in the transmitting (figure 4 and paragraph 16, where "extraction...means" corresponds to "detection"; where in the art, detection is the

extraction of information. Paragraph 18, where "Ranking the number of times of broadcast" corresponds to "the number of times" a specific song was played).

Regarding claims 18 and 20, Naomi teaches of a method and a computer readable medium including computer executable instructions, where the instructions, when executed by a processor, cause the processor to perform a method comprising (paragraphs 15 and 25, where "data processing" of the method requires software for its execution and where software executes written computer programs. E.g., of computer programmed languages "Excel", HTML, SQL, etc.): storing broadcast contents information including the broadcasting time and date and the titles of the broadcast contents that will be broadcasted by one or more broadcasting stations in a storage medium (Paragraphs 15-17; where SQL database computer language allows the storing/retrieval/management of data in a searchable format, at least, according to "track name" corresponding to "title"; thus, setting the search condition according to title); receiving search condition information to specify at least either one of the broadcasting period, the title, and the broadcasting station name of a broadcast program as a search condition from an external device (paragraphs 13 and 20, where the data is distributed according to user's request..."; "customer 13-15 place an order by HP (homepage) etc..."; where a computer or "cellular telephone" are the apparatuses that comprise the HP utilized for the "request"); searching the storage medium for broadcast contents information corresponding to the search condition based on the search condition information received in the receiving; determining a number of times contents were broadcasted in the broadcast contents information that was obtained as



the search result in the searching; and transmitting information based on said number of times contents were broadcasted for said broadcast contents detected in the determining to said external device (figure 4, where in columns 1 and 2, the number of times of the specific song requested/played shown in column 2, where it can be seen that the arrangement is done in a descending order; e.g., 113, 84, 71, 71, 68, 66 and 59 times; where the information is sent to the user's device).

Claims 15, 16 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Ikuo et al. (Ikuo, JP Pub. No.: 2002-342351).

Regarding claims 15 and 22, Ikuo teaches of a system comprising: a storage medium configured to store broadcast contents information including the broadcasting time or date, and titles of the broadcast contents (paragraphs 28, 51 and 58, where the "comprehensive broadcast database" stores the "time" and the "musical piece information" that includes the "title" of the musical piece); a communication unit configured to receive from an external device a request for obtaining a number of times contents were broadcasted and a search condition including at least one of a broadcasting period, a title, and a broadcasting station (paragraph 45, where the database "searches" according to what is requested (received request) and where the "search condition" can be information such as, title, date, frequency, etc), the communication unit configured to transmit to the external device the information representing the number of times contents were broadcasted; and a controller configured to search the storage and to generate information representing said number of times contents were broadcasted based on the search condition (paragraphs 44 and

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54, "musical piece information" and where the information is provided to the "recording company", publishing company", "advertising agency" that sent a condition request).

Regarding claim 16, Ikuo teaches system according to claim 15. Ikuo further teaches where the communication unit receives the request from the external device at predetermined time intervals (paragraph 51, "how many times the specific music piece was broadcast in the specific period).

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angelica Perez whose telephone number is 571-272-7885. The examiner can normally be reached on 6:00 a.m. - 2:30 p.m., Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on (571) 272-7503. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and for After Final communications.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either the PAIR or Public PAIR. Status information for unpublished applications is available through the Private PAIR only. For more information about the pair system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Information regarding Patent Application Information Retrieval (PAIR) system can be found at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2600's customer service number is 703-306-0377.

/A. M. P./

Examiner, Art Unit 2618

/Duc Nguyen/

Supervisory Patent Examiner, Art Unit 2618